

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Gary R. Fischer,
Appellant,

v.

Dickinson County Board of Review,
Appellee.

ORDER

Docket No. 13-30-0894
Parcel No. 03-22-326-007

On April 3, 2014, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Gary R. Fischer was self-represented. Assistant County Attorney Lonnie Saunders represented the Board of Review and participated by phone. The Appeal Board, having reviewed the record, heard the testimony and being fully advised, finds:

Findings of Fact

Gary and David Fischer are the owners of a residentially classified property located at 12555 253rd Avenue, Orleans, Iowa. The property is a one-story, brick home built in 1957 with 1480 square feet of total living area and a partial basement. The property also has a deck and patio. The site is 0.452 acres and has 108.31 effective front feet (EFF) of lakeshore on Spirit Lake.

Fischer protested to the Board of Review regarding the 2013 assessment of \$625,200, allocated as \$509,100 in land value and \$116,100 in improvement value. He claimed the assessment was for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). He also claimed an error in the assessment under section 441.37(1)(a)(4); however, his error claim essentially reasserted his belief the property was over-assessed. The Board of Review reduced the assessment to \$613,000,

allocated as \$509,100 in land value and \$103,900 in improvement value by correcting the basement area and changing the condition of the improvements to normal.

Fischer then appealed to this Board reasserting his claim. He believes the correct total value is \$430,000.

Fisher stated that even though the property has been maintained it is dated; it still has original cabinetry, flooring, and windows. He further explained the subject improvements sit in the middle of two lots, which make up the entire site; and while the improvements have a good view of the lake, the site “sits up high from the bank.” It is not a “low approach” site, and it has a rocky shore with no beach or sand. Furthermore, Fischer stated there are two berm walls, which he asserts are failing and will need repair in the future. He explained the estimates he received for repairing the walls are around \$30,000. For these reasons, he does not believe the assessment is correct.

Fischer also submitted an appraisal completed for refinancing. Kerrie Woodley of Woodley Insurance and Real Estate, Laurens, Iowa opined a market value of \$430,000 as of October 29, 2012. Woodley developed the sales comparison approach and included four comparable sales and two listings. All of the properties were located on the same lake. The sales occurred between May and September 2012, with sales prices ranging from \$345,000 to \$535,000. After adjusting the sales for differences, they indicated a range of value from \$412,500 to \$563,000.

County Assessor Stephanie Sohn testified for the Board of Review. Sohn explained lake front lots are valued on an effective front foot and the pricing for the subject’s area is \$5000 per-effective-front-foot. Sohn was critical of Woodley’s appraisal specifically because she questioned the site adjustments. Sohn asserts Woodley adjusted the sites on a per-square-foot basis. However, the appraisal states the sales’ site adjustments were done on a front-foot basis, using \$1500 as the adjustment. We note though that Woodley adjusted the comparable properties using actual front-foot, the assessment is based on an effective front-foot, which would account for varying depth of lots. The

following chart illustrates the properties' actual front-feet, their effective-front-feet, the front-feet used by Woodley, and the assessed price per-front-foot.

| Address | Actual FF | Effective FF | Appraisal | Assessed \$/EFF |
|-----------------|-----------|--------------|-----------|-----------------|
| Subject | 99.08 | 108.31 | 99.00 | \$5,000 |
| 13271 253rd St | 53.00 | 48.86 | 50.00 | \$5,000 |
| 10970 240th Ave | 72.00 | 83.83 | 72.00 | \$4,200 |
| 12645 253rd Ave | 50.00 | 53.50 | 50.00 | \$5,000 |
| 12525 253rd Ave | 49.45 | 54.07 | 50.00 | \$5,000 |
| 12385 253rd Ave | 52.20 | 56.44 | 52.00 | \$5,000 |
| 12711 253rd Ave | 50.00 | 56.50 | 50.00 | \$5,000 |

Though Woodley used \$1500 as the adjustment per front foot for the comparables, she does not explain how she arrived at that figure. Further, in her cost approach, she indicates a site value for the subject property of \$4500 per-front-foot, and a total site value of \$445,500. Again, Woodley does not explain why she values the subject's site at \$445,500 in the cost approach but then determines a final value of \$430,000. We find Woodley's lack of explanation of these issues reduces the credibility of her report.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

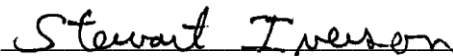
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Fischer submitted the Woodley appraisal, which valued the subject property at \$430,000 as of October 2012. However, as previously noted Woodley's front-foot adjustments are not clearly explained and her valuation of the site alone is higher than the value conclusion of the property as improved. We find the lack of explanation for the significant difference between Woodley's opinion of the site value, and her opinion of the improved value reduces the credibility of her report and makes it unreliable. Fischer did not offer any other evidence of the fair market value of the subject property, and therefore failed to show the property was over assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of the property located at 12555 253rd Avenue, Orleans, Iowa, as set by the Dickinson County Board of Review is affirmed.

Dated this 15th day of April 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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